

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 21
GENERAL REAL ESTATE POWERS

SUBPART 1
SALE OF STATE LANDS FOR PUBLIC PURPOSES

324.2101 State lands; sale or transfer for public purpose; transfer of jurisdiction to other state agencies; reverter clause.

Sec. 2101. (1) The department may sell sites to school districts and churches and sell lands for public purposes to public educational institutions; to the United States; and to governmental units of the state and to agencies thereof from tax reverted state lands under the control of the department, at a price fixed by a formula determined by the state tax commission. The department may transfer jurisdiction of tax reverted state lands for public purposes to any department, board, or commission of the state. The application for the purchase or transfer of tax reverted state lands shall be made by the proper officers of a school district, church, public educational institution, the United States, governmental unit, agency, department, board, or commission upon forms prepared and furnished by the department for that purpose.

(2) The department may sell tax reverted lands to any agency described in subsection (1), and the transfer of the lands is not subject to a reverter clause. If a conveyance or transfer of lands is made to a governmental unit without a reverter clause, the department may convey or transfer the lands at an appraisal value as determined by the state tax commission or at a nominal fee that includes any amount paid by the department for maintaining the lands in a condition that is protective of the public health and safety. If lands are conveyed or transferred for a nominal fee and are subsequently sold by the governmental unit for a valuable consideration, the proceeds from such a sale, after deducting the fee and any amount paid by the local governmental units for maintaining the lands in a condition that is protective of the public health and safety, shall be accounted for to the state, county, township, and school district in which the lands are situated pro rata according to their several interests in the lands arising from the nonpayment of taxes and special assessments on the lands as the interest appears in the offices of the state treasurer or county, city, or village treasurers.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2102 Conveyance of tax reverted land to public agency without monetary consideration; reverter.

Sec. 2102. Notwithstanding section 2101, the department may convey tax reverted land to a public agency described in section 2101 without monetary consideration but subject to a reverter to this state upon termination of the use of the land for which the conveyance was approved by the department or upon any use of the land other than the use for which the conveyance was approved.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2102a Sale or transfer of trail or railway; retention of rail interest and easement.

Sec. 2102a. If the state sells or transfers land containing a Michigan railway established under part 721, an off-road vehicle trail established under part 811, or a snowmobile trail established under part 821, the state shall retain an easement for the continued use of the trail or railway. If the trail or railway at issue is subject to an interest by which the trail or railway could be transformed into or reactivated as a railroad, then the sale or transfer of the trail or railway is subject to the rail interest and any easement retained by the state on the trail or railway is also subject to the rail interest.

History: Add. 1998, Act 17, Imd. Eff. Mar. 9, 1998.

Popular name: Act 451

Popular name: NREPA

SUBPART 2
DELINQUENT TAXES ON PART-PAID LANDS

324.2103 Unpaid tax list; lands patented after assessment; preparation; supervisors to reassess; collection; return.

Sec. 2103. (1) On October 1 of each year, the department shall prepare lists showing the descriptions of lands upon which taxes have been assessed for the current year while the lands were part-paid, but which had been patented by the state, and upon which taxes have not been paid, and shall forward the lists to the supervisor of the township where the lands are located.

(2) The supervisor of the township receiving a list described in subsection (1) shall reassess the taxes reported in the list for the same land.

(3) The township treasurer shall collect and return the taxes in the same manner as provided for the collection and return of other taxes.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 3
EXCHANGE OF STATE LANDS

324.2104 Exchange of lands; authorization; refund of application fee.

Sec. 2104. (1) Any of the lands under the control of the department, the title to which is in this state and which may be sold and conveyed or are a part of the state lands, as well as lands later acquired by this state, or any part or portion of those lands, may be exchanged for lands of equal area or approximately equal value belonging to the United States or owned by private individuals if in the opinion of the department it is in the interest of the state to do so.

(2) If the department charges an application fee for a proposed sale of land under this section and the state land proposed for sale is sold to another party within 3 years after the date a completed application is received by the department, the department shall refund the application fee in full to the applicant if the applicant has informed the department of his or her current address.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1998, Act 28, Imd. Eff. Mar. 18, 1998.

Popular name: Act 451

Popular name: NREPA

324.2105 Exchange of lands with United States; description; maintenance; conveyance; validity.

Sec. 2105. If the department determines that it is in the best interests of the state to relinquish or convey to the United States under the laws of the United States any part or portion of the lands described in section 2104 in exchange for other lands of equal area or approximately equal value to be selected by the department from the unappropriated public lands in this state that belong to the United States and that may be relinquished or conveyed to the state by the United States under the laws of the United States, the department shall maintain a description of the lands belonging to the state that are to be relinquished or conveyed to the United States, and, upon making arrangements with the proper authorities of the United States, the department shall execute the proper conveyance to the United States of the lands to be relinquished or conveyed. This conveyance shall be void if the lands of an equal area or approximately equal value are not relinquished or conveyed by the United States to the state in lieu of the lands and in accordance with selections made by the department.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2106 Exchange of lands with private individuals; description; maintenance; conveyance by individual; title; certification by attorney general; conveyance by state.

Sec. 2106. If the department determines that it is in the best interests of the state to exchange any of the lands mentioned in section 2104 for lands of an equal area or of approximately equal value belonging to private individuals, the department shall maintain a description of the lands to be conveyed and a description of the lands belonging to individuals to be deeded to the state. Before any of the lands are deeded to an individual as provided in this subpart, the person or persons owning the lands to be deeded to the state shall execute a conveyance of those lands to the state. The attorney general shall examine the title to the lands deeded to the state and certify to the department whether or not the conveyance is sufficient to vest in the state a good and sufficient title to the land free from any liens or encumbrances. If the attorney general certifies that

the deed vests in the state a good and sufficient title to the deeded lands free from any liens or encumbrances, the department shall execute a deed to the individual of the lands to be conveyed by the state selected by the department in lieu of the lands.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2107 Acquired lands; classification; control; application by private individual for exchange.

Sec. 2107. If the state acquires lands under this subpart, under former Act No. 193 of the Public Acts of 1911, or pursuant to the laws of the United States providing for an exchange of lands between the United States and the state, the lands acquired by the state shall become a part or portion of that class of lands to which the lands relinquished in lieu of the lands formerly belonged, and shall be subject to the same supervision and control and laws of the state to which the lands relinquished or conveyed by the state would have been subject had they remained the property of the state. However, an application from private individuals for the exchange of their lands for lands proposed to be acquired by the state from the United States under section 2104 shall not be received, filed, or in any manner considered or acted upon until after the state has received conveyance of the lands from the United States, and then applications from private individuals for the exchange of their lands shall be filed, considered, and acted upon only in the order in which they are received.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2108 Conveyance to United States pursuant to property rights acquisition act.

Sec. 2108. Any land that is exchanged, relinquished, or otherwise conveyed to the United States under this subpart shall be conveyed pursuant to the property rights acquisition act, Act No. 201 of the Public Acts of 1986, being sections 3.251 to 3.262 of the Michigan Compiled Laws.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 4

RECORD OF DEEDS FOR TAX HOMESTEAD LANDS

324.2109 Tax homestead lands; legal records; certified copies as evidence.

Sec. 2109. The department shall record, in a suitable book or books kept for that purpose, true copies of all deeds issued by the department for tax homestead lands under the laws of this state providing for the disposal of tax homestead lands, and these copies of deeds issued and deeds which may hereafter be issued are legal records. These legal records, or a transcript of the records, duly certified by the department or other officer having custody of the records, may be read in evidence in all courts of this state, with the same force and effect as the original tax homestead deed.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2110 Tax homestead lands; record of copy of deed.

Sec. 2110. The registers of deeds in the several counties of this state shall receive and record all copies of tax homestead deeds, duly certified to by the department or other officer having the custody of the records, and the record of the certified copy has the same force and effect as the record of the original deed.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2111 Records; certified copy; fee; recording conditions; perjury.

Sec. 2111. The department or other officer having charge of the records described in this subpart shall, upon application from any person, make a certified copy of any tax homestead deed, as provided in this subpart, upon the payment by the applicant of \$1.50 for each certified copy. As a condition precedent to the

recording of a copy of the deed, there shall be attached to the certified copy a sworn statement of the grantee named in the deed, or his or her assign, heir, trustee, or grantee, that the original deed has been lost or is not available for record, and any person swearing falsely under this subpart is subject to the penalties of perjury.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 6 SALE AND RECLAMATION OF SWAMP LANDS

324.2120 Swamp lands; adoption of notes of surveys on file; sale; restrictions; procurement of records.

Sec. 2120. (1) The department shall adopt the notes of the surveys on file in the surveyor general's office as the basis upon which they will receive the swamp lands granted to the state by an act of congress of September 28, 1850.

(2) Swamp lands described in subsection (1) shall only be sold in the same legal subdivisions in which they are received by the state, and none of the lands are subject to private entry until the lands have been offered for sale at public auction as provided in former Act No. 187 of the Public Acts of 1851.

(3) The department may procure all necessary books, maps, or plats of swamp lands as required for the speedy and systematic transaction of the business of the department, and all proper charges for the books, maps, or plats shall be paid out of funds received from the sale of lands under former Act No. 187 of the Public Acts of 1851.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2120a Conveyance of certain land in Calhoun County; legislative findings; identification of current de facto owner; reimbursement for expenses; conveyance to adjacent de facto owner; legal description as approximate; legal effect of interest, right, or obligation; cause of action not created; quitclaim deed; "de facto owner" defined.

Sec. 2120a. (1) This section applies and sections 2120 and 2121 do not apply to the receipt of the following lands by patent or otherwise from the United States or to the conveyance of those lands by the department as provided in this section:

Property located in Clarence Township, Calhoun County, Township 1 South, Range 4 West, Michigan Meridian:

- (a) Government lots 1 to 10 in section 23.
- (b) Government lots 1 to 3 in section 24.
- (c) Government lot 1 in section 25.
- (d) Government lots 1 to 7 and 10 to 13 in section 26.
- (e) Government lots 1 to 4 in section 27.
- (f) Government lot 1 in section 35.

(2) The legislature finds all of the following:

(a) Under statutes of the United States enacted in 1850 and subsequently, the governor of this state has had the power to request the conveyance of swamplands from the United States to this state.

(b) Some conveyances described in subdivision (a) have been requested and made to this state in the past.

(c) However, although the property described in subsection (1) has been eligible for a request and conveyance as described in subdivision (a), no such request and conveyance has ever been made.

(d) A number of citizens of this state are occupants and de facto owners under color of title of portions of the property described in subsection (1). These individuals have made improvements to, maintained, and paid taxes on those portions of the property held under color of title.

(e) It is the intent of the legislature, through this section, to obtain title from the United States to the property described in subsection (1) and to convey the property to the appropriate citizens.

(3) If the governor applies to the bureau of land management of the department of the interior of the United States, or to any other official or agency of the United States that the governor determines is appropriate, for the conveyance of the lands described in subsection (1) to this state, by patent or otherwise, under an 1850 act of congress, chapter 84, 9 Stat. 519, under 43 USC 981 to 986, or under any other applicable law, and if the lands are conveyed to this state, the department shall use its best efforts to determine the identity of the current de facto owners of the lands. In making the determination required by this subsection, the department

shall consult with the department of the attorney general.

(4) The department may require a person claiming to be a de facto owner of any of the lands to reimburse the department, in advance of the conveyance of the property if the department determines necessary, for any expense incurred by the department or the department of the attorney general in making the determination under subsection (3) and in conveying the property under subsection (6).

(5) The department is not required to take any steps to make a determination under subsection (3) other than the steps that the department, in its discretion, determines are reasonably necessary. If the department is unable to determine a de facto owner for a portion of the land or is unable to determine which of 1 or more potential de facto owners has the most legitimate claim to a portion of the land, the department is not required to bring or actively participate in a quiet title action or any other legal action with respect to the property. If the department determines that there is no de facto owner for a portion of the property, the department, in its sole discretion, may convey the portion to an adjacent de facto owner.

(6) After making a determination under subsection (3), the department shall convey a portion or portions of the property described in subsection (1) to a de facto owner as determined under subsections (3) and (5).

(7) The legal description in subsection (1) is approximate for purposes of this section. If the department determines that there is a discrepancy between the legal description in subsection (1) and the legal description of property received by this state under this section, the department, as directed by the department of attorney general, may adjust the description accordingly in any deeds prepared under this section.

(8) The department is not responsible for recording a deed prepared under this section or any costs or fees for or associated with the recording.

(9) Any interests or rights in, or obligations connected to, land conveyed under subsection (6) created before the conveyance under subsection (6) have the same legal effect as if the conveyance under subsection (6) preceded the creation of the interest, right, or obligation, including, but not limited to, any of the following:

- (a) A street or highway right of way.
- (b) A utility, drain, or other easement.
- (c) A mortgage.
- (d) A leasehold.
- (e) Mineral rights.
- (f) A construction lien.
- (g) An interest resulting from an attachment, execution, or other judicial process.
- (h) A tax or tax lien, whether federal, state, or local.
- (i) A special assessment.
- (j) Any other governmental lien.
- (k) Any other lien.

(10) Subsection (9) is intended to affirm title to real property and does not create a cause of action for or otherwise constitute a basis for a tax refund or a property tax appeal.

(11) The department shall make a conveyance under subsection (6) by quitclaim deed, approved by the department of attorney general.

(12) As used in this section, "de facto owner" means a person that could reasonably be considered the owner of the land despite not having good legal title, as indicated by 1 or more of the following:

- (a) A purported chain of title that would show marketable title in the person if a valid governmental patent or other conveyance had been given to the appropriate predecessor in the chain of title.
- (b) Payment of property taxes on the land by the person.
- (c) Possession of and improvement to or maintenance of the land by the person.
- (d) Any other similar factor that the department in its discretion determines should be considered.

History: Add. 2015, Act 18, Imd. Eff. Apr. 29, 2015.

Popular name: Act 451

Popular name: NREPA

SUBPART 7 RECEIPT OF MONEY FROM SALE OF SWAMP LANDS

324.2121 Swamp lands; interest of state; release.

Sec. 2121. The state treasurer may receive from the United States any money that may have been received, or that may hereafter be received, for any of the swamp lands donated to this state, and the department may take an assignment of all bounty land warrants received for any swamp lands sold in this state since the act of congress approved September 28, 1850, and release the interest of the state in any lands sold or entered with

the warrants to purchasers or their assigns.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 8 EASEMENTS OVER STATE OWNED LANDS

324.2123 Granting easement over state-owned land under jurisdiction of department to individual; conditions; 30-day period to consider application; notification of incomplete application; tolling of time period; time period for approval or denial of application.

Sec. 2123. (1) Subject to sections 2123a and 2124, the department may grant or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:

- (a) The individual applies for the easement on a form provided by the department.
 - (b) The individual does not have other legal access to the individual's land.
 - (c) The easement does not conflict with any of the following:
 - (i) An existing program or management as described in an existing plan of the department.
 - (ii) A local ordinance.
 - (d) The road for which the easement is granted is open to public access and not for the exclusive use of the grantee.
 - (e) The easement provides the logical and most feasible access to the individual's land.
 - (f) The width of the road is restricted to the minimum consistent with the quality of the road required.
 - (g) The individual agrees to construct, if necessary, and maintain the road.
 - (h) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.
 - (i) The individual does all of the following:
 - (i) Pays the cost of a survey.
 - (ii) Pays the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (h).
- (2) Effective 30 days after the department receives an application for an easement, the application shall be considered to be complete unless the department proceeds as provided under subsection (3).
- (3) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant, in writing, that the request is not complete, specifying the information necessary to make the request complete, the running of the 30-day period under subsection (2) is tolled until the applicant submits to the department the specified information, at which time the request shall be considered to be complete.
- (4) Within 90 days after the application is considered to be complete, the department shall grant or deny the application for the easement and notify the applicant in writing. If the department denies the application, the notice shall set forth the reasons for the denial.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2011, Act 323, Imd. Eff. Dec. 27, 2011.

Popular name: Act 451

Popular name: NREPA

324.2123a Granting easement over state-owned land under jurisdiction of department to individual; conditions; 30-day period to consider application; notification of incomplete application; tolling of time period; time period for approval or denial of application.

Sec. 2123a. (1) Subject to section 2124 and notwithstanding section 2123, the department shall grant or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:

- (a) The individual applies for the easement on a form provided by the department.
- (b) The individual does not have other legal access to the individual's land.
- (c) The easement does not conflict with any of the following:
 - (i) With an existing program or management as described in an existing plan of the department.
 - (ii) If the land was acquired using revenue from hunting and fishing license fees, federal funds from a

wildlife or sport fish restoration program, or other state or federal program funds, with state or federal laws governing the use of lands acquired through the respective program.

(iii) With a local ordinance.

(d) The easement does not cross an environmentally sensitive area, including, but not limited to, a wetland as defined in section 30301 or a critical dune area as defined in section 35301.

(e) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.

(f) The individual does all of the following:

(i) Pays the cost of a survey.

(ii) Pays to the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (e).

(2) Effective 30 days after the department receives an application for an easement, the application shall be considered to be complete unless the department proceeds as provided under subsection (3).

(3) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant, in writing, that the request is not complete, specifying the information necessary to make the request complete, the running of the 30-day period under subsection (2) is tolled until the applicant submits to the department the specified information, at which time the request shall be considered to be complete.

(4) Within 90 days after the application is considered to be complete, the department shall grant or deny the application for the easement and notify the applicant in writing. If the department denies the application, the notice shall set forth the reasons for the denial.

(5) The department may impose conditions on an easement granted under this section.

History: Add. 2011, Act 323, Imd. Eff. Dec. 27, 2011.

Popular name: Act 451

Popular name: NREPA

324.2124 Granting easement over state-owned land under jurisdiction of department prohibited.

Sec. 2124. The department shall not grant an easement over state-owned land under the jurisdiction of the department if any of the following apply:

(a) The proposed easement is over land designated as a wilderness area, wild area, or natural area under part 351.

(b) The proposed easement is over land in an area closed to vehicular traffic pursuant to management as described in an existing plan of the department.

(c) The construction or use of the new or existing road will result in unreasonable damage to or destruction of the surface, soil, animal life, fish or other aquatic life, or property.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2011, Act 323, Imd. Eff. Dec. 27, 2011.

Popular name: Act 451

Popular name: NREPA

324.2125 Granting easement over state owned land under jurisdiction of department to individual; interest in land required; “interest” defined; construction of words and phrases used to define interest.

Sec. 2125. (1) The department shall not grant an easement over state owned land under the jurisdiction of the department to an individual unless that individual has an interest, as that term is defined in this section, in the land to which the easement is to provide access.

(2) As used in this section, “interest” means an estate in possession other than a chattel interest, which may be in severalty, joint tenancy, tenancy by the entireties, or tenancy in common.

(3) The words and phrases used in subsection (2) to define interest shall be construed pursuant to chapter 62 of the Revised Statutes of 1846, being sections 554.1 to 554.46 of the Michigan Compiled Laws; Act No. 126 of the Public Acts of 1925, being section 557.81 of the Michigan Compiled Laws; and Act No. 210 of the Public Acts of 1927, being sections 557.101 to 557.102 of the Michigan Compiled Laws.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2126 Payment of charges by individual applying for easement.

Sec. 2126. Before the department grants an easement under this subpart, the individual applying for the easement shall pay charges as required by the department. The charges shall be the same as those charges required for the granting of an easement under section 2129.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2011, Act 323, Imd. Eff. Dec. 27, 2011.

Popular name: Act 451

Popular name: NREPA

324.2127 Disposition of revenues.

Sec. 2127. The revenues received from the charges levied under section 2126, less amounts necessary to pay the expenses of administering this subpart, shall be credited to the state fund from which the revenue is appropriated for the payment in lieu of taxes on the land crossed.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2128 Termination of easement; hearing.

Sec. 2128. (1) If the land to which an easement is granted by the department pursuant to this subpart or former Act No. 421 of the Public Acts of 1982 is subsequently subdivided, as this term is defined by section 102 of the subdivision control act, Act No. 288 of the Public Acts of 1967, being section 560.102 of the Michigan Compiled Laws, the easement shall terminate.

(2) If an individual who obtains an easement pursuant to this subpart violates the terms of the easement, the easement shall terminate, and any rights in the easement shall terminate, after opportunity for a hearing under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, is provided.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 9

EASEMENTS FOR PUBLIC UTILITIES

324.2129 Easements for public utilities over state lands; disposition of revenue.

Sec. 2129. The department may grant easements, upon terms and conditions the department determines just and reasonable, for state and county roads and for the purpose of constructing, erecting, laying, maintaining, and operating pipelines, electric lines, telecommunication systems, and facilities for the intake, transportation, and discharge of water, including pipes, conduits, tubes, and structures usable in connection with the lines, telecommunication systems, and facilities, over, through, under, and upon any and all lands belonging to the state which are under the jurisdiction of the department and over, through, under, and upon any and all of the unpatented overflowed lands, made lands, and lake bottomlands belonging to or held in trust by this state. Except as otherwise specifically provided by law, revenue received as the result of the granting of an easement shall be deposited in the state fund from which revenues are appropriated for the payment in lieu of taxes required to be paid in relation to state land under subpart 14.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 10

LAND EXCHANGE FACILITATION FUND

324.2130 Definitions.

Sec. 2130. As used in this subpart:

(a) “Board” means the Michigan natural resources trust fund board established in part 19.

(b) “Fund” means the land exchange facilitation fund created in section 2134.

(c) “Land” includes lands, tenements, and real estate and rights to and interests in lands, tenements, and real estate.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2131 Designation and sale of surplus land; restrictions.

Sec. 2131. (1) Except as otherwise provided in subsection (2) or (3), the department may designate as surplus land any state owned land that is under the control of the department and that has been dedicated for public use and may, on behalf of the state, sell that land if the department determines all of the following:

(a) That the sale will not materially diminish the quality or utility of other state owned land adjoining the land to be sold.

(b) That the sale is not otherwise restricted by law.

(c) That the sale is in the best interests of the state, giving due regard to the variety, use, and quantity of lands then under the control of the department.

(d) That 1 or more of the following conditions are met:

(i) The land has been dedicated for public use for not less than 5 years immediately preceding its sale and is not needed to meet a department objective.

(ii) The land is occupied for a private use through inadvertent trespass.

(iii) The sale will promote the development of the forestry or forest products industry or the mineral extraction and utilization industry in this state.

(2) The department shall not authorize the sale of surplus land as provided in subsection (1) if the proceeds from the sale of the land will cause the balance of the fund to exceed \$25,000,000.00.

(3) Except as provided in section 74102b, the department shall not designate as surplus land any land within a state park or state recreation area.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2001, Act 174, Imd. Eff. Dec. 11, 2001;—Am. 2006, Act 308, Imd. Eff. July 20, 2006;—Am. 2012, Act 622, Imd. Eff. Jan. 9, 2013.

Popular name: Act 451

Popular name: NREPA

324.2132 Sale of surplus land; price; methods; sale to highest bidder; condition to acceptance of bid; notice; disposition of proceeds; quitclaim deed; consideration of application.

Sec. 2132. (1) Subject to subsection (2), the department may sell surplus land at a price established using the method that the department determines to be most appropriate, such as any of the following:

(a) Appraisal.

(b) Appraisal consulting.

(c) A schedule adopted by the department for pricing property with uniform characteristics and low utility.

(d) The true cash value of nearby land as determined by the local assessor.

(2) If the department offers tax reverted land for sale and the land is not sold within 9 months, the department may sell the land to a qualified buyer who submits an offer that represents a reasonable price for the property as determined by the department.

(3) The sale of surplus land shall be conducted by the department through 1 of the following methods:

(a) A public auction sale.

(b) A negotiated sale.

(4) Subject to subsection (1), the sale of surplus land through a public auction sale shall be to the highest bidder.

(5) A notice of the sale of surplus land shall be given as provided in section 2133.

(6) The proceeds from the sale of surplus land shall be deposited into the fund.

(7) Surplus land that is sold under this subpart shall be conveyed by quitclaim deed approved by the attorney general.

(8) Each application, as later amended or supplemented, submitted by a private person under subsection (3)(b) for the purchase of the land identified in that application as a prospect for purchase, shall be considered and acted upon by the department to final decision, before any other application submitted at a later date by a different private person for the purchase or exchange of the same land.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1998, Act 117, Imd. Eff. June 9, 1998;—Am. 2012, Act 240, Imd. Eff. July 2, 2012;—Am. 2012, Act 622, Imd. Eff. Jan. 9, 2013.

Popular name: Act 451

Popular name: NREPA

324.2133 Notice of sealed or oral bid public auction or notice of negotiated sale; publication

Rendered Friday, February 17, 2017

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and contents; list of surplus lands.

Sec. 2133. (1) A notice of a sealed or oral bid public auction sale of surplus lands shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.1461 of the Michigan Compiled Laws, not less than 10 days before the sale. The newspaper shall be published in the county where the surplus lands are located. If a newspaper is not published in the county where the surplus lands are located, the notice shall be published in a newspaper in a county nearest to the county in which the lands are located. A notice shall describe the general location of the surplus lands to be offered at the sale and the date, time, and place of the sale. Upon request, the department shall furnish a list of surplus lands being offered for sale at public auction. The surplus land sale list shall include all of the following:

- (a) The date, time, and place of sale.
- (b) Descriptions of surplus lands being offered.
- (c) The conditions of sale.

(2) A notice of a negotiated sale of surplus lands shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961 not less than 10 days before the department authorizes the sale. The newspaper shall be published in the county where the surplus lands are located. If a newspaper is not published in the county where the surplus lands are located, the notice shall be published in a newspaper in a county nearest to the county in which the lands are located. A notice shall describe the general location of the surplus lands offered in a negotiated sale and the date, time, and place that the department will meet to authorize the sale. Upon request, the department shall furnish a list of surplus lands being offered in a negotiated sale. The surplus land negotiated sale list shall include both of the following:

- (a) The date, time, and place that the department will meet to authorize the sale.
- (b) Descriptions of surplus lands being offered.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2134 Land exchange facilitation fund; creation; administration; money carried over.

Sec. 2134. (1) A land exchange facilitation fund is created in the state treasury. The fund shall be administered by the department and shall be used only as provided in section 2135.

(2) Any money, including interest earned by the fund, remaining in the fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall not be credited to or revert to the general fund.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2135 Land exchange facilitation fund; use of money; purchase of land identified in recommendation; report.

Sec. 2135. (1) Money from the fund shall be used by the department only for the following purposes:

(a) Upon the recommendation of the department and authorization of the board, the purchase of land for natural resources management, administration, and public recreation that has been approved by the legislature for purchase pursuant to section 1908.

(b) The costs of advertising, appraisals, negotiations, and closings incurred by the department in the sale of surplus land.

(c) The costs of appraisals, negotiations, and closings incurred by the department in the purchase of land authorized by this subpart.

(2) If the board does not authorize or reject a recommendation of the department to purchase land within 60 days, the department may purchase the land identified in the recommendation.

(3) The report required by section 506 shall include a summary of all the disbursements of money from the fund for the purposes enumerated in subsection (1).

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2136 Construction of subpart.

Sec. 2136. This subpart does not limit the authority of the department to do 1 or both of the following:

- (a) To exchange land as provided in subpart 3.
- (b) To sell land as provided in the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 11

CONSERVATION AND HISTORIC PRESERVATION EASEMENT

324.2140 Definitions.

Sec. 2140. As used in this subpart:

(a) "Conservation easement" means an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

(b) "Historic preservation easement" means an interest in land that provides a limitation on the use of a structure or site that is listed as a national historic landmark under chapter 593, 49 Stat. 593, 16 U.S.C. 461 to 467, commonly known as the historic sites, buildings, and antiquities act; is listed on the national register of historic places pursuant to the national historic preservation act of 1966, Public Law 89-665, 16 U.S.C. 470 to 470a, 470b, and 470c to 470x-6; is listed on the state register of historic sites pursuant to Act No. 10 of the Public Acts of 1955, being sections 399.151 to 399.152 of the Michigan Compiled Laws; or is recognized under a locally established historic district created pursuant to the local historic districts act, Act No. 169 of the Public Acts of 1970, being sections 399.201 to 399.215 of the Michigan Compiled Laws, or requires or prohibits certain acts on or with respect to the structure or site, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the structure or site or in an order of taking, if the interest is appropriate to the preservation or restoration of the structure or site.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2141 Conservation easement; enforcement; recordation.

Sec. 2141. A conservation easement granted to a governmental entity or to a charitable or educational association, corporation, trust, or other legal entity is enforceable against the owner of the land or body of water subject to the easement despite a lack of privity of estate or contract, a lack of benefit running to particular land or a body of water, or the fact that the benefit may be assigned to another governmental entity or legal entity, including a conservation easement executed before March 31, 1981. The easement shall be recorded with the register of deeds in the county in which the land is located to be effective against a bona fide purchaser for value without actual notice.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2142 Historic preservation easement; enforcement; recordation.

Sec. 2142. A historic preservation easement granted to a governmental entity or to a charitable or educational association, corporation, trust, or other legal entity whose purposes include the preservation or restoration of structures or sites described in section 2140(b) is enforceable against the owner of the structure or site subject to the easement despite a lack of privity of estate or contract, a lack of benefit running to the particular structure or site, or the fact that the benefit may be assigned to another governmental entity or legal entity whose purposes include the preservation or restoration of structures or sites described in section 2140(b), including a historic preservation easement executed before March 31, 1981. The easement shall be recorded with the register of deeds in the county in which the land is located to be effective against a bona fide purchaser for value without actual notice.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2143 Enforceability of restriction, easement, covenant, or condition.

Sec. 2143. This subpart does not render unenforceable a restriction, easement, covenant, or condition that does not have the benefit of this subpart.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2144 Conservation easement or historic preservation easement as interest in real estate; document creating easement as conveyance; recordation; enforcement; assignment.

Sec. 2144. (1) A conservation easement or historic preservation easement is an interest in real estate, and a document creating 1 of those easements shall be considered a conveyance of real estate and shall be recorded in accord with Act No. 103 of the Public Acts of 1937, being sections 565.201 to 565.203 of the Michigan Compiled Laws, in relation to the execution and recording of instruments. The easement shall be enforced either by an action at law or by an injunction or other equitable proceedings.

(2) A conservation easement may be assigned to a governmental or other legal entity, which shall acquire that interest in the same manner as the governmental entity or legal entity acquires an interest in land.

(3) A historic preservation easement may be assigned to a governmental or other legal entity whose purposes include the preservation or restoration of structures or sites described in section 2140(b), and the governmental or legal entity shall acquire that interest in the same manner as the governmental entity or legal entity acquires an interest in land.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 12

ACQUISITION OF SURFACE LANDS FOR WATER QUALITY CONTROL

324.2145 Iron ore mining; public interest; acquisition of property; conditions.

Sec. 2145. The business of mining and beneficiating low-grade iron ore, as defined in Act No. 77 of the Public Acts of 1951, being sections 211.621 to 211.626 of the Michigan Compiled Laws, and the business of the beneficiating and agglomerating of underground iron ore as defined in Act No. 68 of the Public Acts of 1963, being sections 207.271 to 207.279 of the Michigan Compiled Laws, are declared to be in the public interest and necessary to the public welfare, and the acquisition of private property for development of an adequate water supply, for development of the necessary storage, and for processing and treatment of liquid and solid wastes or other nonmarketable products resulting from the business is declared to be for a public purpose. The department may acquire by condemnation parcels of land that are needed for the establishment of areas, settling ponds, and basins for the storage, processing, and treatment of the wastes or other products, together with the necessary appurtenant canals, pipelines, power lines, sluiceways, roadways, dams, and dikes. The department shall lease, convey, or exchange such parcels of land to any person engaged in or proposing to engage in the business of mining and beneficiating low-grade iron ore or beneficiating and agglomerating underground iron ore, or both, upon a showing to the satisfaction of the department that the person has acquired at least 75% of the necessary land and that the person has been unable to purchase the remaining necessary parcels at a fair market value, and upon the further showing to the satisfaction of the department that the remaining parcels are necessary for the development and operation of the water supply areas, settling ponds, and basins to prevent the unlawful pollution of waters of the state or to comply with the requirements of other public agencies of the state. This subpart does not authorize the taking of any property owned by a political subdivision of the state or devoted to or used for a public or railroad purpose or the taking of any private property lying within the limits of any incorporated city or village or lands within a recorded plat in an unincorporated village.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2146 Condemnation of land; compensation to owners.

Sec. 2146. The department shall provide adequate compensation for any owner-occupied residences of

owner-occupied or owner-operated farmland that it condemns pursuant to this subpart to enable the owners of the property to purchase like property suitable to their needs and in standard condition from the proceeds of the compensation, which shall at a minimum be equal to the valuation of the housing or agricultural land as of the date when proceedings for the condemnation were initiated by the department.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2147 Lease or conveyance of land; conditions for issuance.

Sec. 2147. The department shall require as a condition for the issuance of any lease or conveyance authorized by this subpart the payment by the lessee of the full amount of compensation made or to be made by the department of the lands it has condemned. The lease shall contain provisions that protect the ownership of materials that are deposited upon the lands.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 13

TAX ON TAX REVERTED, RECREATION, AND FOREST LANDS

324.2150 Tax on tax reverted, recreation, and forest or other lands; exemption; detailed statement of account; descriptions of lands; warrant; distribution; payment of tax from general fund; payment in full.

Sec. 2150. (1) Except as otherwise provided in subsection (2), on December 1 of each year the department of treasury shall pay into the treasury of each county in which are located tax reverted, recreation, forest, or other lands under the control and supervision of the department a tax in the following amount:

- (a) Before December 1, 1994, \$2.50 per acre or major portion of an acre.
- (b) After November 30, 1994 and before January 1, 2014, \$2.00 per acre or major portion of an acre.
- (c) After December 31, 2013 and before January 1, 2015, \$3.00 per acre or major portion of an acre.
- (d) After December 31, 2014, \$4.00 per acre or major portion of an acre adjusted annually by 5% or the inflation rate, whichever is less, which shall be distributed as provided in subsection (5). As used in this subdivision, "inflation rate" means that term as defined in section 34d of the general property tax act, 1893 PA 206, MCL 211.34d.

(2) The tax levied under subsection (1) does not apply to the following:

- (a) Lands purchased after January 1, 1933 for natural resource purposes.
- (b) State lands on which payments in lieu of taxes are made pursuant to subpart 14.

(3) The tax levied under this section shall be in lieu of all other taxes now levied against the state lands under any existing law.

(4) The department of treasury shall make a detailed statement of account between this state and each county in which lands subject to the tax levied under this section are situated. The statement shall include a description of the lands. The department of treasury shall submit the detailed statement of account to the county treasurer of the county. The department of treasury shall cause a warrant to be drawn payable to the county for the amount indicated on the detailed statement of account.

(5) The county treasurer of each county shall immediately make a detailed statement of account between the county and each township and school district in the county, distributing the amount received by the county proportionally according to the number of acres of the lands located in each township and school district. For disbursements made before December 1, 1994, the distribution shall be 40% to the county general fund, 40% to the township general fund, and 20% to the school operating fund. For disbursements made after November 30, 1994, the distribution shall be 50% to the county general fund and 50% to the township general fund. The county treasurer shall immediately issue his or her warrant to each of the units according to the detailed statement of account.

(6) The tax on tax reverted, recreation, forest lands, or other lands under the control of the department on which payments are made under this subpart shall be paid from the general fund. This state shall make payment in full for the amount indicated in the statement of account prepared under subsection (4).

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 1996, Act 585, Eff. Mar. 1, 1997;—Am. 2012, Act 603, Imd. Eff. Jan. 9, 2013.

Popular name: Act 451

Popular name: NREPA

324.2151 Tax on certain state lands; duty of department; record; warrant.

Sec. 2151. The department shall enter upon its records against each description of the land the amounts provided by this subpart and shall certify the amounts to the department of treasury, which shall draw a warrant on the state treasurer for those amounts, the tax on tax reverted, recreation, forest lands, or other lands under the control of the department to be paid out of any money in the general fund not otherwise appropriated. The amounts shall be forwarded by the department of treasury to the county treasurers.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 14

PAYMENT IN LIEU OF TAXES ON CERTAIN STATE LANDS

324.2152 List of certain real property owned by state and controlled by department; furnishing list to state tax commission.

Sec. 2152. For the purpose of this subpart, the department shall furnish the state tax commission with a list of all real property owned by the state and controlled by the department that was or is acquired on or after January 1, 1933 by purchase from the owner or owners of the real property and the Mason game farm, showing all descriptions.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2153 Valuation of real property; report to assessing district; entering description upon assessment rolls; exemption; "local taxing unit" defined; adjustment; valuation established.

Sec. 2153. (1) For purposes of this subpart, the state tax commission shall determine the valuation of real property described in section 2152 before February 1 of each year. The state tax commission shall determine the valuation of real property as provided in subsection (7).

(2) Not later than February 15 of each year, the state tax commission shall make a report to the assessing districts of this state in which the real property is located, giving a description of the real property in the assessing district held by the state and the valuation as fixed by the state tax commission pursuant to subsection (7).

(3) Except as otherwise provided in subsection (7), the state tax commission shall furnish a valuation to the assessing officers that shall be at the same value as other real property is assessed in the assessment district. In fixing the valuation, the state tax commission shall not include improvements made to or placed upon that real property.

(4) Upon receipt of the valuation under subsection (3), the assessing officer shall enter upon the assessment rolls of each municipality or assessing district the respective descriptions of the real property and the fixed valuation and, except as otherwise provided in subsection (5), shall assess that real property for the purposes of this subpart at the same rate as other real property in the assessing district. A local taxing unit may by resolution permanently exempt that real property from any tax levied by that local taxing unit. As used in this subsection, "local taxing unit" means a city, village, township, county, school district, intermediate school district, community college, authority, or any other entity authorized by law to levy a tax on real property.

(5) Except as limited in subsection (6) and as otherwise provided in subsection (7), the assessing officer may adjust the valuation determined by the state tax commission. If an adjustment to the valuation certified by the state tax commission is made, the assessing officer shall certify all of the following to the department, not later than the first Wednesday after the first Monday in March:

(a) The amount and percentage of any general adjustment of assessed valuation of property located in the assessing district other than property described in section 2152.

(b) The amount and percentage of any change in the assessment roll.

(c) The relation of the total valuation to that reported by the state tax commission.

(d) The adjusted total of conservation land.

(6) The following shall not be included in an adjustment under subsection (5):

(a) Any general adjustment of assessed valuation of property located in the assessing district.

(b) The tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(7) Before 2012, property valuations shall be established as follows:

(a) For property valuations established under this subpart in 2004, the 2004 valuation shall be the valuation of the property in 2004 through 2008.

(b) In 2009 and each year after 2009, the valuation of property shall not increase each year by more than the increase in the immediately preceding year in the general price level or 5%, whichever is less. As used in this subdivision, "general price level" means that term as defined in section 33 of article IX of the state constitution of 1963.

(c) If property is acquired after 2004, the initial property valuation determined under this section shall be the valuation for each subsequent year until the next adjustment under subdivision (b) occurs.

(8) Beginning in 2013, property valuations shall be the greater of the following:

(a) The value of the property calculated under subsection (7).

(b) The taxable value of the property calculated under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2004, Act 513, Imd. Eff. Jan. 3, 2005;—Am. 2012, Act 603, Imd. Eff. Jan. 9, 2013.

Popular name: Act 451

Popular name: NREPA

324.2154 Statement of assessment; review; payment; failure of assessing district to submit statement; aggregate charges; amount available; failure of state to make payment; "Michigan natural resources trust fund" defined.

Sec. 2154. (1) The treasurer or other officer charged with the collection of taxes for an assessing district shall annually forward a single statement of the assessment of all property for which payment is claimed under this subpart to the respective county by December 1. The statement shall include an itemization of the valuation and assessment for each individual parcel for which payment is claimed under this subpart. The county shall annually forward the statements received from all affected assessing districts in the county to the Lansing office of the department by December 15. The Lansing office of the department shall review each statement. Subject to subsection (2), if the assessment has been determined according to this subpart, the department shall authorize the state treasurer to pay the amount of the assessment by warrant on the state treasury. Beginning in 2014, if an assessing district does not submit a statement under this subsection by January 1, the amount payable to that assessing district shall be reduced by 5% for each month or portion of a month after January 1 that the statement is late. The state treasurer shall annually forward a separate payment in the amount of the assessment to each affected assessing district in the county by February 14 for any assessing district that has submitted a statement as provided in this subsection.

(2) For payments made before 2012, the aggregate amount for all payments to all assessing districts under section 2153 shall be charged as follows:

(a) That portion of the payment that represents an assessment by a local school district, intermediate school district, or community college district shall be charged against the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(b) The balance of any payment remaining after the charge made in subdivision (a) shall be charged as follows:

(i) Not more than 50% from restricted revenue sources of the department of natural resources.

(ii) The remaining balance after the charge under subparagraph (i), from the general fund.

(3) For payments made after 2011, the aggregate amount for all payments to all assessing districts under section 2153 shall be charged as follows:

(a) If property for which payment is claimed was not purchased with funds from the Michigan natural resources trust fund, payments shall be charged as follows:

(i) That portion of the payment that represents an assessment by a local school district, intermediate school district, or community college district shall be charged against the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(ii) The balance of any payment remaining after the charge made in subparagraph (i) shall be charged as follows:

(A) Not more than 50% from restricted revenue sources of the department of natural resources.

(B) The remaining balance after the charge under sub-subparagraph (A), from the general fund.

(b) If the property for which payment is claimed was purchased with funds from the Michigan natural resources trust fund, that portion of the payment that represents an assessment by a local school district, intermediate school district, or community college district shall be charged against the Michigan natural resources trust fund and the balance of any payment remaining after that charge shall be charged against the

Michigan natural resources trust fund.

(4) Before 2012, if the amount available for payment to all local assessing districts from the general fund or from any restricted fund is less than the amount required for payment to all local assessing districts from the general fund or from any restricted fund, the amount available for payment to each local assessing district shall be distributed in the same proportion from the general fund or from any restricted fund that the required payment to that local assessing district is to the total of all required payments from the general fund or from any restricted fund. Partial payments charged against the Michigan natural resources trust fund under subsection (3) do not satisfy payments obligated by this state.

(5) Beginning 2013, this state shall make payment in full to all local assessing districts under this section. Beginning 2014, if this state does not make payment in full to all local assessing districts, the delinquent amount that this state failed to pay is subject to penalty and interest as for delinquent taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(6) As used in this section, "Michigan natural resources trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963 and provided for in section 1902.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2004, Act 513, Imd. Eff. Jan. 3, 2005;—Am. 2010, Act 31, Imd. Eff. Mar. 26, 2010;—Am. 2011, Act 118, Imd. Eff. July 20, 2011;—Am. 2012, Act 604, Imd. Eff. Jan. 9, 2013.

Popular name: Act 451

Popular name: NREPA

SUBPART 15

PROTECTION OF STATE OWNED LANDS

324.2155 "Damages" defined.

Sec. 2155. As used in this subpart, "damages" means the fair market value on the stump or at the mill, whichever is greater of a forest product cut or removed, or the fair and actual value of any other property removed or damaged in trespass, plus any other damages caused before, during, or after the cutting or removal.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2156 Removal of forest products or property from state owned land; accepting or receiving property in violation of subsection (1).

Sec. 2156. (1) Unless a person has the written permission of the department or is acting as authorized in R 299.321 or R 299.331 of the Michigan administrative code, a person shall not enter upon, or induce or direct any person to enter upon, any state owned land and cut, or induce or direct to be cut, or remove, or induce or direct to be removed, any logs, posts, poles, ties, shrubs, or trees, or any other forest product. In addition, a person shall not injure or remove, or induce or direct any other person to injure or remove, any buildings, fences, improvements, sand, gravel, marl or other minerals, or other property belonging to or appertaining to state owned land.

(2) A person shall not accept or receive by purchase or otherwise a forest product, improvement, or other property unlawfully cut or removed, or both, knowing the property to have been unlawfully cut or removed, or both, in violation of subsection (1).

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2157 Violation; penalties; determination of total value; prior convictions; prohibition.

Sec. 2157. (1) A person who violates section 2156 is guilty of a crime as follows:

(a) If the damages are less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or 3 times the aggregate value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine:

(i) The value of the forest product, improvement, or property involved is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under section 2156.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine:

(i) The value of the forest product, improvement, or property involved is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate section 2156. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the forest product, improvement, or property involved, whichever is greater, or both imprisonment and a fine:

(i) The forest product, improvement, or property involved has a value of \$20,000.00 or more.

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under section 2156. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(2) The values of the forest product, improvement, or property involved in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the forest products, improvements, or property involved.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2001, Act 155, Eff. Jan. 1, 2002.

Popular name: Act 451

Popular name: NREPA

324.2158 Violation; additional penalties.

Sec. 2158. (1) In addition to the penalties provided for in section 2157, a person convicted of violating this subpart shall forfeit in a civil action filed by the state a sum of up to 3 times the actual damages, but not less than \$50.00, that were caused by the unlawful act, and court costs and attorney fees. In addition, the material or other property cut or removed shall be seized by the state, and title to the property shall be in the state. In addition, equipment used to violate this subpart may be seized and disposed of to the best advantage of the state as determined by the department as required under sections 1603 and 1604.

(2) A court in which a conviction for a violation of this subpart is obtained shall order the defendant to forfeit to the state a sum as set forth in subsection (1). If 2 or more defendants are convicted of a violation of this subpart, the forfeiture shall be declared against them jointly.

(3) If a defendant fails to pay upon conviction the sum ordered by the court to be forfeited, the court shall either impose a sentence and require the defendant, as a condition of the sentence, to satisfy the forfeiture in the amount prescribed and fix the manner and time of payment, or make a written order permitting the defendant to pay the sum to be forfeited in installments at those times and in those amounts that in the opinion of the court the defendant is able to pay.

(4) If a defendant defaults in payment of the sum forfeited or of an installment of that sum, the court on motion of the department or upon its own motion may require the defendant to show cause why the default should not be treated as a civil contempt, and the court may issue a summons or warrant of arrest for his or her appearance. Unless the defendant shows that the default was not due to an intentional refusal to obey the order of the court or a failure to make a good faith effort to obtain the funds required for the payment, the

court shall find that the default constitutes a civil contempt.

(5) If in the opinion of the court the defendant's default in the payment of the forfeiture does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the forfeiture or of each installment, or revoking the forfeiture or the unpaid portion of the forfeiture, in whole or in part.

(6) A default in the payment of the forfeiture or an installment payment may be collected by any means authorized for the enforcement of a judgment under chapter 60 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.6001 to 600.6098 of the Michigan Compiled Laws.

(7) A court receiving forfeiture damages shall remit the damages with an abstract or register of actions to the department, which shall deposit the damages with the state treasurer, who shall deposit the damages in the fund that was used to purchase the land on which the violation occurred.

(8) All money received by the disposal of seized property under this subpart shall be deposited with the state treasurer, who shall deposit the money in the fund that was used to purchase the land on which the violation occurred.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

SUBPART 16

CERTIFIED COPIES OF FIELD NOTES, MAPS, RECORDS, AND PAPERS

324.2160 Delivery of records as to land titles and surveys; certified copies admissible as evidence.

Sec. 2160. Upon receipt of an application of any person, and payment by the applicant of the fees provided for in this part, the department shall make and deliver to the applicant a true copy of any field notes, maps, records, or papers possessed by the department appertaining to land titles or to the original surveys of any of the lands in this state. Such a true copy, when certified to by the department under its seal, or the record thereof when recorded in the office of the register of deeds of the proper county, may be admitted in evidence in all courts and places in which the title or boundary of any land is in question, and shall have the same force and effect, as evidence, as though chapter XXXVI, 5 Stat. 384, had named the department as the officer to whom the surveyor general should deliver all the field notes, maps, records, and other papers appertaining to land titles.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2161 Prices and charges; schedule.

Sec. 2161. The following schedule of prices and charges shall be observed by the department:

- (a) For field and meander notes, per survey township, \$8.00.
- (b) For each official certificate with seal, \$1.00.
- (c) For township plats showing vacant state lands only, each, 25 cents.
- (d) For township plats showing vacant state lands with streams, each, 50 cents.
- (e) For copies of all records and papers that the department may be required to furnish by law, for each 100 words, 15 cents.
- (f) For tax statements on each description of land, per year, 6 cents.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.2162 Disposition of fees.

Sec. 2162. The fees received for all services under this part shall be paid into the state treasury and credited to the general fund.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA